



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,830	12/20/2000	Darryl Franklin Clark	14207	8827

23556 7590 05/23/2003

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

EXAMINER

PRATT, CHRISTOPHER C

ART UNIT	PAPER NUMBER
----------	--------------

1771

DATE MAILED: 05/23/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/742,830

Applicant(s)

CLARK ET AL.

Examiner

Christopher C Pratt

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-10,21.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that Sawyer fails to teach a difference in Melt Flow rates being at least 65%. Applicant concedes that Sawyer teaches a range meeting applicant's limitation; however applicant argues that Sawyer does not teach "sufficient specificity" to anticipate the claim. This is not persuasive because Sawyer discloses that high melt flow rates are preferred (col. 3, lines 53-55). Sawyer also discloses upper limits for melt flow rates. Sawyer provides an upper limit of propylene of 800 and an upper limit of ethylene to be 400, wherein the ethylene is on the outside of the fiber. These upper limits differ by more than 65% (col. 3, lines 35-45). Therefore, Sawyer provides sufficient specificity to utilize melt flow rates differing by more than 65%.

Applicant argues that only the preferred embodiments of a reference can be utilized. This argument is unpersuasive because a reference is evaluated by its entire disclosure.

Applicant argues that the examiner never addressed how Sawyer teaches the second polymer to comprise the "majority" of the outer surface of the fiber. As previously set forth, Sawyer teaches sheath/core fibers. The sheath portion inherently comprises the majority of the outer surface of the fiber.

Applicant argues that Newkirk fails to teach melt flow rates to differ by 65%. Newkirk also provides for a polyethylene to have an upper limit of 150 and polypropylene to have an upper limit of 65. Therefore, Newkirk provides sufficient specificity to utilize differential melt flow rates.

Newkirk also teaches the use of sheath/core fibers, which inherently have one polymer comprising the majority of the outer surface of the fiber.



CHERYL A. JUSKA
PRIMARY EXAMINER